

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC,)	
)	
Plaintiff,)	
)	
vs.)	No. 2:22-cv-203-JRG
)	
MICRON TECHNOLOGY, INC.; MICRON)	JURY TRIAL DEMANDED
SEMICONDUCTOR PRODUCTS, INC.;)	
MICRON TECHNOLOGY TEXAS LLC,)	
)	
Defendants.)	
)	

JOINT MOTION TO AMEND DOCKET CONTROL ORDER

Plaintiff Netlist, Inc. (“Netlist”) and Defendants Micron Technology, Inc., Micron Semiconductor Products, Inc., and Micron Technology Texas LLC (collectively “Micron”) jointly file this Joint Motion to Amend Docket Control Order. The Parties respectfully request that the Court amend the Docket Control Order as proposed below to provide a two-day extension to the deadlines for the parties to submit responsive, reply, and sur-reply claim construction briefings:

Amended Deadline	Current Deadline	Items
	January 22, 2024	* Jury Selection – 9:00 a.m. in Marshall, Texas
	December 26, 2023	* If a juror questionnaire is to be used, an editable (in Microsoft Word format) questionnaire shall be jointly submitted to the Deputy Clerk in Charge by this date.
	December 20, 2023	* Pretrial Conference – 9:00 am in Marshall, Texas before Judge Roy Payne
	December 11, 2023	* Notify Court of Agreements Reached During Meet and Confer The parties are ordered to meet and confer on any outstanding objections

Amended Deadline	Current Deadline	Items
		or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
	December 11, 2023	*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions <i>in Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations
	December 4, 2023	*File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e- mail the Court Reporter, Shelly Holmes, at shelly_holmes@txed.uscourts.gov.
	November 27, 2023	File Motions <i>in Limine</i> The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
	November 27, 2023	Serve Objections to Rebuttal Pretrial Disclosures
	November 20, 2023	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
	November 6, 2023	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
	October 30, 2023	*Response to Dispositive Motions (including <i>Daubert</i> Motions).

Amended Deadline	Current Deadline	Items
		Responses to dispositive motions that were filed <u>prior</u> to the dispositive motion deadline,
		including <i>Daubert</i> Motions, shall be due in accordance with Local Rule CV-7(e), not to exceed the deadline as set forth in this Docket Control Order. ¹ Motions for Summary Judgment shall comply with Local Rule CV-56.
	October 16, 2023	*File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions) No motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.
	October 16, 2023	*File Dispositive Motions No dispositive motion may be filed after this date without leave of the Court. Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u>
	October 10, 2023	Deadline to Complete Expert Discovery
	September 25, 2023	Serve Disclosures for Rebuttal Expert Witnesses

¹ The parties are directed to Local Rule CV-7(d), which provides in part that “[a] party’s failure to oppose a motion in the manner prescribed herein creates a presumption that the party does not controvert the facts set out by movant and has no evidence to offer in opposition to the motion.” If the deadline under Local Rule CV 7(e) exceeds the deadline for Response to Dispositive Motions, the deadline for Response to Dispositive Motions controls.

Amended Deadline	Current Deadline	Items
	September 5, 2023	Deadline to Complete Fact Discovery and File Motions to Compel Discovery
	September 5, 2023	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
	August 9, 2023	Comply with P.R. 3-7 (Opinion of Counsel Defenses)
	July 19, 2023	*Claim Construction Hearing – 9:00 a.m. in Marshall, Texas before Judge Roy Payne
July 7, 2023	July 5, 2023	Deadline for Sur-Reply Claim Construction Brief
	July 5, 2023	*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
June 30, 2023	June 28, 2023	*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
June 23, 2023	June 21, 2023	Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)

The parties understand that the deadline that they request the Court to amend may require a showing of good cause. Specifically, the parties request that the deadlines to file responsive, reply, and sur-reply claim construction briefs be moved to accommodate scheduling conflicts. The parties request that the deadlines for the responsive, reply, and sur-reply claim construction briefs be moved from June 21, 2023, June 28, 2023, and July 5, 2023, respectively, to June 23, 2023, June 30, 2023, and July 7, 2023, respectively. The parties' request would not affect the date of the claim construction hearing.

Dated: June 21, 2023

Respectfully submitted,

/s/ Jason Sheasby

Samuel F. Baxter
Texas State Bar No. 01938000
sbaxter@mckoolsmith.com
Jennifer L. Truelove
Texas State Bar No. 24012906
jtruelove@mckoolsmith.com
MCKOOL SMITH, P.C.
104 East Houston Street Suite 300
Marshall, TX 75670
Telephone: (903) 923-9000
Facsimile: (903) 923-9099

Jason G. Sheasby (*pro hac vice*)
jsheasby@irell.com
Annita Zhong, Ph.D. (*pro hac vice*)
hzhong@irell.com
Thomas C. Werner (*pro hac vice*)
twerner@irell.com
Yanan Zhao (*pro hac vice*)
yzhao@irell.com
Michael W. Tezyan (*pro hac vice*)
mtezyan@irell.com

IRELL & MANELLA LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067
Tel. (310) 277-1010
Fax (310) 203-7199

Attorneys for Plaintiff Netlist, Inc.

/s/ Michael R. Rueckheim

Thomas M. Melsheimer
State Bar No. 13922550
TMelsheimer@winston.com
Natalie Arbaugh
State Bar No. 24033378
NArbaugh@winston.com
WINSTON & STRAWN LLP
2121 N. Pearl Street, Suite 900
Dallas, TX 75201
Telephone: (214) 453-6500
Facsimile: (214) 453-6400

Michael R. Rueckheim
State Bar No. 24081129
MRueckheim@winston.com
WINSTON & STRAWN LLP
255 Shoreline Drive, Ste 520
Redwood City, CA 9405
Telephone: (650) 858-6500
Facsimile: (650) 858-6559

David Enzminger
Pro Hac Vice Pending
DEnzminger@winston.com
WINSTON & STRAWN LLP
333 S. Grand Avenue
Los Angeles, CA 90071-1543
Telephone: (213) 615-1700
Facsimile: (213) 615-1750

Matthew Hopkins
Pro Hac Vice Pending
mhopkins@winston.com
WINSTON & STRAWN LLP
1901 L Street, NW
Washington, DC 20036
Telephone: (202) 282-5862
Facsimile: (202) 282-5100

Juan Yaquian
State Bar No. 24110559
Pro Hac Vice
JYaquian@winston.com
WINSTON & STRAWN LLP
800 Capital Street, Suite 2400
Houston, TX 77002

Telephone: (713) 651-2600

Facsimile: (713) 651-2700

***Attorneys for Defendants Micron Technology,
Inc., Micron Semiconductor Products, Inc.,
Micron Technology Texas LLC***

CERTIFICATE OF CONFERENCE

I hereby certify that counsel have complied with the meet and confer requirement in Local Rule CV-7(h) and this Court's Orders and that all parties join in this motion.

/s/ Michael R. Rueckheim
Michael R. Rueckheim

CERTIFICATE OF SERVICE

I hereby certify that, on June 20, 2023, a copy of the foregoing was served to all counsel of record.

/s/ Michael R. Rueckheim
Michael R. Rueckheim